

FIRST REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILLS NOS. 370,  
375 & 432**

94TH GENERAL ASSEMBLY

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Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, March 1, 2007, with recommendation that the Senate Committee Substitute do pass.

1567S.04C

TERRY L. SPIELER, Secretary.

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**AN ACT**

To repeal sections 170.015, 188.015, 188.075, and 197.200, RSMo, and to enact in lieu thereof six new sections relating to abortion, with penalty provisions.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 170.015, 188.015, 188.075, and 197.200, RSMo, are  
2 repealed and six new sections enacted in lieu thereof, to be known as sections  
3 170.015, 188.015, 188.075, 188.325, 188.335, and 197.200, to read as follows:

170.015. 1. Any course materials and instruction relating to human  
2 sexuality and sexually transmitted diseases shall be medically and factually  
3 accurate and shall:

4 (1) Present abstinence from sexual activity as the preferred choice of  
5 behavior in relation to all sexual activity for unmarried pupils because it is the  
6 only method that is one hundred percent effective in preventing pregnancy,  
7 sexually transmitted diseases and the emotional trauma associated with  
8 adolescent sexual activity, and advise students that teenage sexual activity places  
9 them at a higher risk of dropping out of school because of the consequences of  
10 sexually transmitted diseases and unplanned pregnancy;

11 (2) Stress that sexually transmitted diseases are serious, possible, health  
12 hazards of sexual activity. Pupils shall be provided with the latest medical  
13 information regarding exposure to human immunodeficiency virus, acquired  
14 immune deficiency syndrome (AIDS), human papilloma virus, hepatitis and other  
15 sexually transmitted diseases;

16 (3) Present students with the latest medically factual information

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

17 regarding both the possible side effects and health benefits of all forms of  
18 contraception, including the success and failure rates for the prevention of  
19 pregnancy and sexually transmitted diseases; **or shall present students with**  
20 **information on contraceptives and pregnancy in a manner consistent**  
21 **with the provisions of the federal abstinence education law, 42 U.S.C.**  
22 **Section 710;**

23 (4) Include a discussion of the possible emotional and psychological  
24 consequences of preadolescent and adolescent sexual activity and the  
25 consequences of adolescent pregnancy, as well as the advantages of adoption,  
26 including the adoption of special needs children, and the processes involved in  
27 making an adoption plan;

28 (5) Teach skills of conflict management, personal responsibility and  
29 positive self-esteem through discussion and role-playing at appropriate grade  
30 levels to emphasize that the pupil has the power to control personal  
31 behavior. Pupils shall be encouraged to base their actions on reasoning,  
32 self-discipline, sense of responsibility, self-control, and ethical considerations,  
33 such as respect for one's self and others. Pupils shall be taught not to make  
34 unwanted physical and verbal sexual advances or otherwise exploit another  
35 person. Pupils shall be taught to resist unwanted sexual advances and other  
36 negative peer pressure;

37 (6) Advise pupils of the laws pertaining to their financial responsibility  
38 to children born in and out of wedlock and advise pupils of the provisions of  
39 chapter 566, RSMo, pertaining to statutory rape.

40 2. Policies concerning referrals and parental notification regarding  
41 contraception shall be determined by local school boards **or charter schools**,  
42 consistent with the provisions of section 167.611, RSMo.

43 3. A school district **or charter school** which provides human sexuality  
44 instruction may separate students according to gender for instructional purposes.

45 4. The board of a school district **or charter school** shall determine the  
46 specific content of the district's **or school's** instruction in human sexuality, in  
47 accordance with subsections 1 to 3 of this section, and shall ensure that all  
48 instruction in human sexuality is appropriate to the age of the students receiving  
49 such instruction.

50 5. A school district **or charter school** shall notify the parent or legal  
51 guardian of each student enrolled in the district **or school** of:

52 (1) The basic content of the district's **or school's** human sexuality

53 instruction to be provided to the student; and

54 (2) The parent's right to remove the student from any part of the district's  
55 **or school's** human sexuality instruction.

56 6. A school district **or charter school** shall make all curriculum  
57 materials used in the district's **or school's** human sexuality instruction available  
58 for public inspection pursuant to chapter 610, RSMo, prior to the use of such  
59 materials in actual instruction.

60 7. No school district or charter school, or its personnel or agents,  
61 shall provide abortion services, or permit a person or entity to offer,  
62 sponsor, or furnish in any manner any course materials or instruction  
63 relating to human sexuality or sexually transmitted diseases to its  
64 students if such person or entity is a provider of abortion services.

65 8. As used in this section, the following terms mean:

66 (1) "Abortion", the same meaning as such term is defined in  
67 section 188.015, RSMo;

68 (2) "Abortion services":

69 (a) Performing, inducing, or assisting in the performing or  
70 inducing of an abortion which is not necessary to save the life of the  
71 mother;

72 (b) Encouraging a patient to have an abortion or referring a  
73 patient for an abortion, which is not necessary to save the life of the  
74 mother; or

75 (c) Developing or dispensing drugs, chemicals, or devices  
76 intended to be used to induce an abortion which is not necessary to  
77 save the life of the mother.

188.015. [Unless the language or context clearly indicates a different  
2 meaning is intended, the following words or phrases for the purposes of sections  
3 188.010 to 188.130 shall be given the meaning ascribed to them] **As used in this**  
4 **chapter, the following terms mean:**

5 (1) "Abortion", the intentional destruction of the life of an embryo or fetus  
6 in his or her mother's womb or the intentional termination of the pregnancy of a  
7 mother with an intention other than to increase the probability of a live birth or  
8 to remove a dead or dying unborn child;

9 (2) "Abortion facility", a clinic, physician's office, or any other place or  
10 facility in which abortions are performed **or induced** other than a hospital;

11 (3) "Conception", the fertilization of the ovum of a female by a sperm of

12 a male;

13 (4) **"Department", the department of health and senior services;**

14 (5) **"Gestational age", length of pregnancy as measured from the first day**  
15 **of the woman's last menstrual period;**

16 (6) **"Medical emergency", a condition which, on the basis of a**  
17 **physician's good faith clinical judgment, so complicates the medical**  
18 **condition of a pregnant woman as to necessitate the immediate**  
19 **abortion of her pregnancy to avert the death of the pregnant woman or**  
20 **for which a delay will create a serious risk of substantial and**  
21 **irreversible impairment of a major bodily function of the pregnant**  
22 **woman;**

23 [(5)] (7) **"Physician", any person licensed to practice medicine in this**  
24 **state by the state board of registration of the healing arts;**

25 [(6)] (8) **"Unborn child", the offspring of human beings from the moment**  
26 **of conception until birth and at every stage of [its] his or her biological**  
27 **development, including the human conceptus, zygote, morula, blastocyst, embryo,**  
28 **and fetus;**

29 [(7)] (9) **"Viability", that stage of fetal development when the life of the**  
30 **unborn child may be continued indefinitely outside the womb by natural or**  
31 **artificial life-supportive systems.**

188.075. 1. Any person who contrary to the provisions of sections 188.010  
2 to 188.085 knowingly performs, **induces**, or aids in the performance **or**  
3 **inducing** of any abortion or knowingly fails to perform any action required by  
4 sections 188.010 to 188.085 [shall be] **is** guilty of a class A misdemeanor, **unless**  
5 **a different penalty is provided for in state law**, and, upon conviction, shall  
6 be punished as provided by law.

7 2. **It shall be an affirmative defense for any person alleged to**  
8 **have violated any provision of this chapter that the person performed**  
9 **an action or did not perform an action because of a medical**  
10 **emergency. This affirmative defense shall be available in criminal,**  
11 **civil, and administrative actions or proceedings. The defendant shall**  
12 **have the burden of persuasion that the defense is more probably true**  
13 **than not.**

188.325. 1. **There is hereby established the "Missouri Alternatives**  
2 **to Abortion Services Program" which shall be administered by a state**  
3 **agency or agencies, as designated by appropriations to such or each**

4 agency. The alternatives to abortion services program shall consist of  
5 services or counseling to pregnant women and continuing for one year  
6 after birth to assist women in carrying their unborn children to term  
7 instead of having abortions, and to assist women in caring for their  
8 dependent children or placing their children for adoption.

9 2. Services provided under the alternatives to abortion program  
10 shall include, but not be limited to the following:

- 11 (1) Prenatal care;
- 12 (2) Medical and mental health care;
- 13 (3) Parenting skills;
- 14 (4) Drug and alcohol testing and treatment;
- 15 (5) Child care, and newborn and infant care;
- 16 (6) Housing and utilities;
- 17 (7) Educational services;
- 18 (8) Food, clothing, and supplies relating to pregnancy, newborn  
19 care, and parenting;
- 20 (9) Adoption assistance;
- 21 (10) Job training and placement;
- 22 (11) Establishing and promoting responsible paternity;
- 23 (12) Ultrasound services;
- 24 (13) Case management;
- 25 (14) Domestic abuse protection; and
- 26 (15) Transportation.

27 3. Actual provision and delivery of services and counseling shall  
28 be dependent on client needs and not otherwise prioritized by the  
29 agency or agencies administering the program. Services and  
30 counseling shall be available only during pregnancy and continuing for  
31 one year after birth, and shall exclude any family planning  
32 services. The agency or agencies administering the program may  
33 contract with other public or private agencies or entities to provide the  
34 services or counseling on behalf of the agency or agencies  
35 administering the program. Such other public or private agencies or  
36 entities may provide additional services or counseling, or services or  
37 counseling for more than one year after birth, that are not funded  
38 under the alternatives to abortion services program, as long as such  
39 services or counseling are not inconsistent with the provisions of this  
40 section. Contractors for the alternatives to abortion services program

41 may also be contractors for the alternatives to abortion public  
42 awareness program established in section 188.335.

43 4. The agency or agencies administering the program shall to the  
44 greatest extent possible supplement and match moneys appropriated  
45 for the alternatives to abortion services program with federal and other  
46 public moneys and with private moneys. The agency or agencies  
47 administering the program shall prioritize such additional federal,  
48 other public, and private moneys so that they are used preferentially  
49 for the alternatives to abortion services program and the alternatives  
50 to abortion public awareness program.

51 5. The alternatives to abortion services program and the moneys  
52 expended under this section shall not be used to perform or induce,  
53 assist in the performing or inducing of or refer for abortions. Moneys  
54 expended under this section shall not be granted to organizations or  
55 affiliates of organizations that perform or induce, assist in the  
56 performing or inducing of or refer for abortions.

188.335. 1. There is hereby established the "Missouri Alternatives  
2 to Abortion Public Awareness Program" which shall be administered by  
3 a state agency or agencies, as designated by appropriations to such or  
4 each agency.

5 2. The purpose of the alternatives to abortion public awareness  
6 program is to help pregnant women at risk for having abortions to be  
7 made aware of the alternatives to abortion agencies located and  
8 alternatives to abortion services available to them in their local  
9 communities. The alternatives to abortion public awareness program  
10 shall include the development and promotion of a web site which  
11 provides a geographically indexed list of alternatives to abortion  
12 agencies as well as contractors for the alternatives to abortion services  
13 program established in section 188.325. As used in this section,  
14 "alternatives to abortion agencies" means agencies exempt from income  
15 taxation pursuant to the United States Internal Revenue Code that  
16 offer alternatives to abortion services as defined within section 188.325,  
17 including but not limited to maternity homes, pregnancy resource  
18 centers, and agencies commonly known and referred to as crisis  
19 pregnancy centers. The alternatives to abortion public awareness  
20 program may also include but need not be limited to the use of  
21 television, radio, outdoor advertising, newspapers, magazines, and

22 other print media, and the Internet to provide information on these  
23 alternatives to abortion agencies and services. The state agency or  
24 agencies administering the alternatives to abortion public awareness  
25 program are encouraged to give first preference to contracting with  
26 private agencies or entities, which are exempt from income taxation  
27 pursuant to the United States Internal Revenue Code, to conduct the  
28 alternatives to abortion public awareness program. Contractors for the  
29 alternatives to abortion public awareness program may also be  
30 contractors for the alternatives to abortion services program  
31 established in section 188.325.

32 3. The agency or agencies administering the program shall to the  
33 greatest extent possible supplement and match moneys appropriated  
34 for the alternatives to abortion public awareness program with federal  
35 and other public moneys and with private moneys. The agency or  
36 agencies administering the program shall prioritize such additional  
37 federal, other public, and private moneys so that they are used  
38 preferentially for the alternatives to abortion public awareness  
39 program and the alternatives to abortion services program.

40 4. The alternatives to abortion public awareness program and  
41 the moneys expended under this section shall not be used to perform  
42 or induce, assist in the performing or inducing of or refer for  
43 abortions. Moneys expended under this section shall not be granted to  
44 organizations or affiliates of organizations that perform or induce,  
45 assist in the performing or inducing of or refer for abortions.

197.200. As used in sections 197.200 to 197.240, unless the context clearly  
2 indicates otherwise, the following terms mean:

3 (1) "Ambulatory surgical center", any public or private establishment  
4 operated primarily for the purpose of performing surgical procedures or primarily  
5 for the purpose of performing childbirths, **or any establishment operated for**  
6 **the purpose of performing or inducing any second or third trimester**  
7 **abortions or five or more first trimester abortions per month**, and which  
8 does not provide services or other accommodations for patients to stay more than  
9 twenty-three hours within the establishment, provided, however, that nothing in  
10 this definition shall be construed to include the offices of dentists currently  
11 licensed pursuant to chapter 332, RSMo;

12 (2) "Dentist", any person currently licensed to practice dentistry pursuant  
13 to chapter 332, RSMo;

14           (3) "Department", the department of health and senior services;

15           (4) "Governmental unit", any city, county or other political subdivision of  
16 this state, or any department, division, board or other agency of any political  
17 subdivision of this state;

18           (5) "Person", any individual, firm, partnership, corporation, company, or  
19 association and the legal successors thereof;

20           (6) "Physician", any person currently licensed to practice medicine  
21 pursuant to chapter 334, RSMo;

22           (7) "Podiatrist", any person currently licensed to practice podiatry  
23 pursuant to chapter 330, RSMo.

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Bill

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